

## Evidence of CR and Presence on 6/15/12 (Continued)

Evidence	Acceptable Documentation
Memberships	<ul style="list-style-type: none"> <li>• Official records from a religious entity in the United States confirming the requestor's participation in or attendance at a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.).</li> <li>• Documentation showing membership in community org. (e.g. Scouts).</li> </ul>
Military Records	Military records (e.g., certificate of discharge, military personnel records; or military health records).
Additional Documents	<p>Additional documents to support the requestor's claim may include:</p> <ul style="list-style-type: none"> <li>• Money order receipts for money sent in or out of the country;</li> <li>• Passport entries;</li> <li>• Birth certificates of children born in the United States;</li> <li>• Bank books with dated transactions;</li> <li>• Correspondence between the requestor and other persons/org.;</li> <li>• Social Security card;</li> <li>• Selective Service card;</li> <li>• Automobile license receipts, title, vehicle registration, etc;</li> <li>• Deeds, mortgages, contracts to which requestor has been a party;</li> <li>• Tax receipts;</li> <li>• Insurance policies, receipts, or postmarked letters; and/or</li> </ul> <p>Any other relevant document.</p>



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## Applying the DACA Guidelines - Education

### **Basic Educational Guidelines**

The educational guideline for DACA can be met in a number of different ways. The requestor can show that he/she:

- Is currently in school;
- Has graduated from high school; or
- Has obtained a certificate of completion from high school or a General Educational Development (GED) certificate.



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## Applying the DACA Guidelines – Education (Continued)

### Homeschooling

A claim of homeschooling is not, in and of itself, an indicator of fraud; however, because homeschool programs and their requirements vary widely from state to state, refer the case to CFDO for further research and evaluation.

- Even if the file contains evidence including transcripts, diplomas, or certificates of completion received as a result of homeschooling, the case must be referred to CFDO for further research and evaluation, prior to final adjudication.



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# Applying the DACA Guidelines – Education (Continued)

## **Currently in School**

The DACA requestor can be enrolled in:

- A public/private elementary school, junior high or middle school, high school, or secondary school;
- An education, literacy, or career training program (including vocational training or an English as a Second Language (ESL) course);
- An education program assisting students either in obtaining a regular high school diploma or its recognized equivalent under State law (including a certificate of completion, certificate of attendance, or alternate award), or in passing a GED exam or other equivalent State-authorized exam; or
- A public or private college or university or a community college.



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## Applying the DACA Guidelines – Education (Continued)

### **School Breaks and Medical Leave**

**School Breaks:** When the DACA requestor files the DACA request, it is possible that school may not be in session due to a holiday or a semester (or quarter or trimester) break.

- A break may occur during a course, for example spring break, or it may occur between semesters, for example summer break.
- If a DACA request is filed between semesters, the requestor is considered to be currently in school if he/she is enrolled for the next semester and submits evidence of such enrollment.

**Medical Leave:** Note that a DACA requestor on temporary medical leave from school is considered to be currently in school. Evidence of the medical leave and the expected return date to school are to be provided.



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## Applying the DACA Guidelines – Education (Continued)

### **Enrollment in Personal Enrichment or Recreational Classes**

A DACA requestor who is enrolled in a personal enrichment class (such as arts and crafts) or who is enrolled in a recreational class (such as canoeing) is not in an alternative educational program and thus not considered to be “currently in school” for DACA purposes.



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## Applying the DACA Guidelines – Education (Continued)

### **Enrollment in On-Line Classes**

- Evidence of enrollment in on-line courses is acceptable.
- Officers should focus on the school, not the medium.
- It is not uncommon for students to be enrolled in online courses.
- Officers should focus on the completeness, credibility, relevance, and sufficiency of the evidence to see if it is germane.



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## Applying the DACA Guidelines – Education (Continued)

### **Primary/Middle/Secondary School – Accepted for Enrollment**

Evidence of acceptance for enrollment may include, but is not limited to:

- An acceptance letter on school letterhead from the school's authorized representative, if the requestor was accepted for enrollment, but the classes have not yet commenced.
  - Such acceptance letter is to include the name and address of the school, the requestor's grade level, and the date that the classes are scheduled to commence.
  - Such acceptance letter is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date.
  - If the requestor has been accepted for enrollment at a private school, evidence of enrollment, such as paid tuition receipts, is to be included.



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## Applying the DACA Guidelines – Education (Continued)

### **Primary/Middle/Secondary School – Accepted for Enrollment (Continued)**

- A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, for a student with a disability, would also be acceptable evidence of enrollment;
- A current class schedule containing the student's name, the list of courses, and the day and time of each class; or
- Any other relevant evidence.



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## Applying the DACA Guidelines – Education (Continued)

### **Primary/Middle/Secondary School – Attending Classes**

DACA requestors already enrolled and attending classes may submit:

- Current school registration cards,
- Current transcripts;
- Report cards; or
- Progress reports.

The document(s) presented are to show the name of the student, the name of the school, the time period or semester covered by the document, and the current grade level.

A current IEP showing the student's progress to date would also be acceptable evidence that the DACA requestor has been accepted for enrollment and is attending classes.



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## Applying the DACA Guidelines – Education (Continued)

### GED

To show “currently in school” based on enrollment in a class for a GED or other equivalent State-authorized exam, look for a letter or other document from an authorized representative of the program, that includes information such as:

- The requestor’s name and date of enrollment;
- The duration of the program and expected completion date;
- Whether the course of study is for or a GED exam or other equivalent State-authorized exam;
- The program’s source of public funding (Federal, State; county, or municipal), if any; and
- The program’s authorized representative’s contact information.



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## Applying the DACA Guidelines – Education (Continued)

### **GED (Continued)**

If the GED/Equivalency program is not publicly funded in whole or in part, documentation from the program is also to provide information about its demonstrated effectiveness. Such information could include, but is not limited to:

- The duration of the program's existence;
- The program's track record in assisting students in obtaining a GED, or a recognized equivalent certificate;
- Receipt of awards or special achievement or recognition that indicate the program's overall quality; and/or
- Any other information indicating the program's overall quality.



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## Applying the DACA Guidelines – Education (Continued)

### **Public or Private College or University, or Community College – Accepted for Enrollment**

Evidence of enrollment in a public or private college or university or a community college may include, but is not limited to:

- An acceptance package and related materials on school letterhead from the school's authorized representative, if the requestor was accepted for enrollment, but the classes have not yet commenced.
  - Such acceptance package is to include the name and address of the school, the requestor's grade level or class year, and the date or term when the classes are scheduled to commence.
  - Such acceptance package is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date.



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## Applying the DACA Guidelines – Education (Continued)

### **Public or Private College or University, or Community College – Accepted for Enrollment (Continued)**

Evidence of acceptance for enrollment can also include:

- A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, for a student with a disability;
- A copy of the student's current tuition bill;
- The student's current class schedule containing the list of courses, and the day and time of each class; or
- Any other relevant evidence.



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## Applying the DACA Guidelines – Education (Continued)

### **Public or Private College or University, or Community College – Attending Classes:**

For DACA-requestors already enrolled and attending classes, evidence may include, but is not limited to:

- Current school registration cards;
- Current transcripts;
- Report cards; or
- Progress reports.

The document(s) presented are to show the name of the student, the name of the school, the time period or semester covered by the document, and the current grade level or class year.



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## Applying the DACA Guidelines – Education (Continued)

### **Public or Private College or University, or Community College – Attending Classes (Continued):**

A current IEP showing the student's progress to date would also be acceptable evidence of enrollment and attending classes.

It is not necessary to RFE for a copy of the high school diploma or GED, unless there are articulable reasons to question the evidence of acceptance and enrollment or attendance in a public or private college or university, or community college.



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# Applying the DACA Guidelines – Education (Continued)

## Alternative Educational Programs

DACA requestors can show they are currently in school by enrolling in/attending an alternative education program.

Different guidelines apply, depending on the type of program and whether the program is publicly or privately funded.

Public funding can be in whole or in part and can be:

- Federal;
- State;
- County; and/or
- Municipal.

If the program is not publicly funded, it must show its demonstrated effectiveness.

- Doesn't apply to non-profit literacy programs.



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## Applying the DACA Guidelines – Education (Continued)

### Alternative Educational Programs (Continued)

Alternative Educational Programs – Funding/Effectiveness			
Type of Program	Non-Profit Status	Public Funding (in whole or in part)	Demonstrated Effectiveness – Required for each program that is not publicly funded. (Does not apply to non-profit literacy programs).
ESL	N/A	Letter from the ESL program administrator or authorized representative providing basic details about the source(s) of funding.	<p>The program administrator or authorized representative is to provide information about the program's demonstrated effectiveness. Such information could include, but is not limited to:</p> <ul style="list-style-type: none"> <li>• The duration of the program's existence;</li> <li>• The program's track record in placing students in post-secondary education, job training, or employment;</li> <li>• Receipt of awards or special achievement or recognition that indicate the program's overall quality; and/or</li> <li>• Any other information indicating the program's overall quality.</li> </ul> <p><b>**</b> Refer the case to CFDO if enrolled in a literacy program run by a <b>for-profit</b> entity.</p>
<b>**Literacy</b>	A copy of the IRS letter confirming tax exempt status under 501(c)(3)	If, not tax exempt, but publicly funded, a letter from the program administrator providing basic details about the source(s) of funding.	
Career Training and Vo-Tech	N/A	Letter from the school registrar or authorized school representative providing basic details about the source(s) of public funding.	



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# Applying the DACA Guidelines – Education (Continued)

Alternative Educational Programs – Evidence of Acceptance for Enrollment or Attending Classes		
Enrolled in/Attending Literacy or ESL Program		
<b>ESL</b>	<p>A letter from the program administrator or authorized representative providing information such as:</p> <ul style="list-style-type: none"> <li>• The requestor's name;</li> <li>• Date of enrollment;</li> <li>• Duration of the ESL program and expected end date;</li> <li>• The program admin/auth. Rep's contact info.</li> </ul>	
<b>Career Training and Vo-Tech</b>	<b>Accepted for Enrollment</b>	<b>Attending Classes</b>
	<p>An acceptance letter on school letterhead from the school registrar/authorized school representative. Letter is to include: name and address of the program, a brief description of the program, the duration of the program, the date classes will begin, with evidence of registration.</p> <p>Evidence of acceptance for enrollment may also include a copy of the current year registration (intake form/enrollment form), or any other relevant documentation.</p>	<ul style="list-style-type: none"> <li>• Current attendance records</li> <li>• Transcripts</li> <li>• Report cards</li> <li>• Test reports</li> <li>• Progress reports</li> </ul> <p>Documents are to show the name of the school, the name of the requestor, the time period or semester covered by the document, and, if relevant, the current educational or grade level.</p>



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## Applying the DACA Guidelines – Education (Continued)

### Graduated from School

Evidence of “graduated from school” may include copies of:

- A diploma;
- Transcripts showing the date of graduation; or
- A GED Certificate, certificate of completion, certificate of attendance, or alternate award from a public or private high school/secondary school.

Evidence of GED or equivalent certificate includes, but is not limited to:

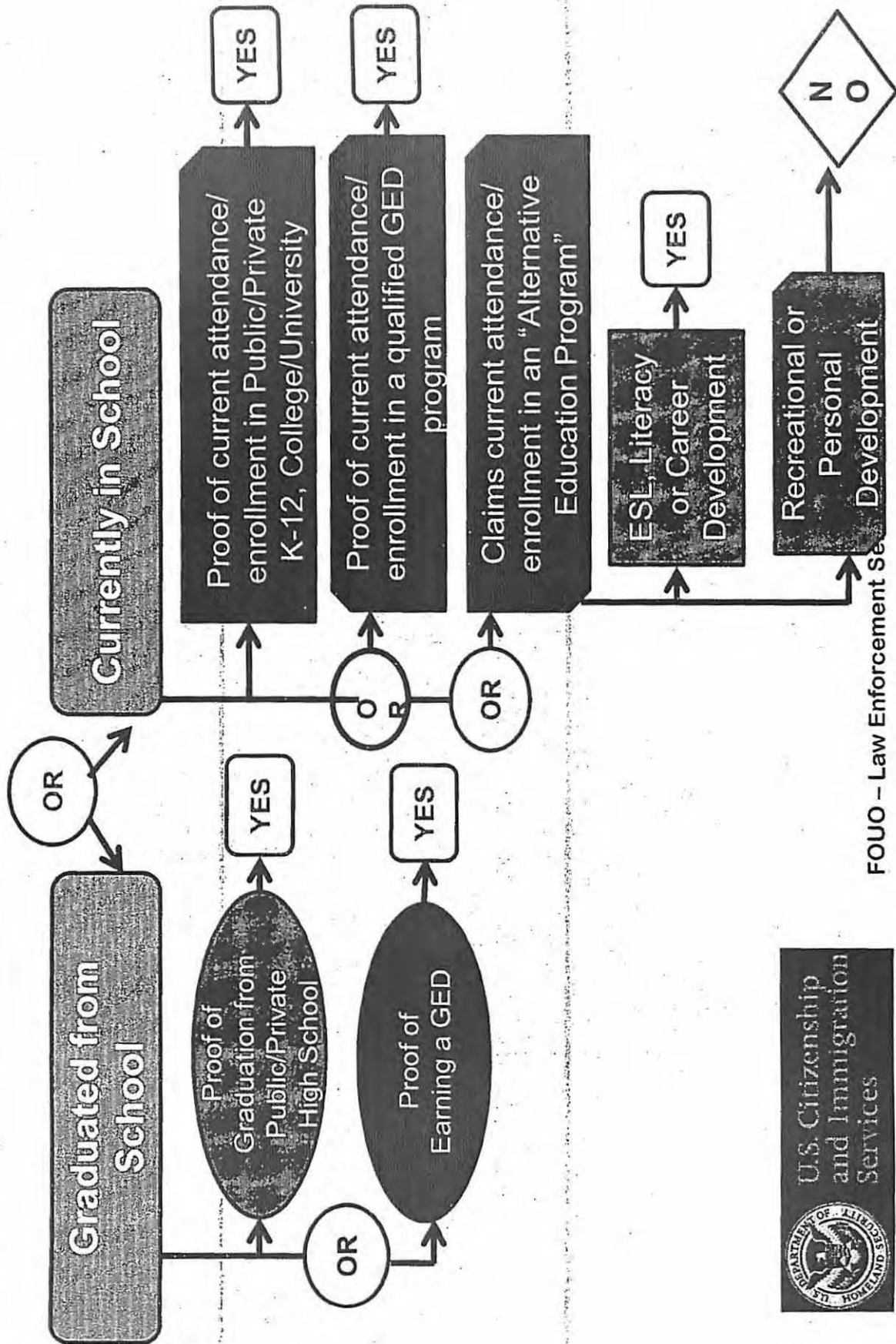
- Passed a GED exam; or
- Other comparable State-authorized exam resulting in the issuance of a recognized equivalent of a regular high school diploma under State law.



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# Applying the DACA Educational Guidelines – Recap



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## Interim Review

### Fact Pattern:

The requestor is 19 years old and indicated that she went to a U.S. high school for 2 years and was then homeschooled. She submitted:

- Copies of high school transcripts showing attendance for her freshman and sophomore years (2007-2009)
- 2 affidavits indicating she was homeschooled until last year
- A receipt indicating enrollment in an ESL course to start next week

### Questions for Discussion:

- Did the requestor meet the “education” guideline? Explain.
- Does this case require a referral to CFDO?



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## Applying the DACA Guidelines – Honorable Military Discharge

As an alternative to showing that he/she is currently in school or has graduated from school, a DACA requestor can meet the Secretary's guidelines by showing that he/she is an honorably discharged veteran of the U.S. armed forces or U.S. Coast Guard.

Examples of acceptable evidence of honorable military/Coast Guard discharge include:

- Form DD-214, Certificate of Release or Discharge from Active Duty;
- NGB Form 22, National Guard Report of Separation and Record of Service;
- Military personnel records;
- Military health records; or
  - A military health record will indicate branch of service, but not the character of the service member's discharge;
- Any other relevant document.



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## Applying the DACA Guidelines – Honorable Military Discharge (Continued)

The Form DD-214 and NGB Form 22 both contain a section, “Character of Service” listing the type of discharge a service member obtained. The main types of discharge include the following:

- Honorable;
- General (under Honorable Conditions);
- Under Other Than Honorable Conditions;
- Bad Conduct;
- Dishonorable; or
- Uncharacterized.

To meet the military guideline, the “Character of Service” must be Honorable or General (under Honorable Conditions).



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## Applying the DACA Guidelines – Issues of Criminality, Public Safety and National Security

Under the Secretary's guidelines, removal will not be deferred under DACA when the requestor:

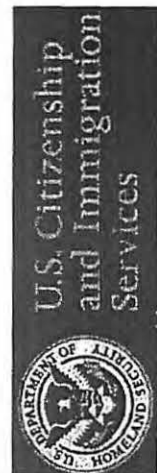
- Has been convicted of a felony offense, a significant misdemeanor offense, or three or more other misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct; or
- Otherwise poses a threat to national security or public safety.

The guidelines and procedures for cases involving criminal, national security, and public safety issues are covered more in depth later in the training.



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# V. Weighing the Evidence and Standard of Proof



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## Module Objectives

The objective of this section is to provide a basic understanding of:

- Review primary and secondary evidence;
- Understand how to weigh the totality of the primary and secondary evidence when adjudicating a DACA request;
- Apply the preponderance of the evidence standard in the adjudication of DACA requests; and,
- Understand which DACA guidelines can be supported by an affidavit.



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## Evaluating the Supporting Evidence

- The requestor is to show, by a preponderance of the evidence, that he/she meets the guidelines for deferral of removal under DACA.
- Evaluate and weigh the sufficiency of all evidence according to its relevancy, consistency, and probative value.
- Consider any additional and new facts and/or evidence in response to an RFE or NOID before rendering a final determination.



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## Standard of Proof: Preponderance of the Evidence

A DACA requestor is to establish by a preponderance of the evidence that he/she meets the guidelines for the exercise of prosecutorial discretion in the form of deferred action.

Under this standard, the requestor must demonstrate that it is more likely than not that he or she meets those guidelines.

- The preponderance of the evidence standard is a lower standard of proof than both the “clear and convincing evidence” standard and the “beyond a reasonable doubt” standard applicable to criminal cases.
- More likely than not means probable, in other words, 51% or more.



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## Primary Evidence

Primary evidence is evidence which, on its face, proves a fact.

- In the DACA context, an example of primary evidence that could be submitted to satisfy the age guideline would be a birth certificate.
- An example of primary evidence that could be submitted to satisfy all or part of the CR guideline would be school records.



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